IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 26TH OCTOBER 2007 / 4TH KARTHIKA 1929

WP(C).No. 23716 of 2006(W)

PETITIONER:

K.RAVEENDRAN, UPPER PRIMARY SCHOOL
ASSISTATN, ETTUKUDUKKA A.U.P.SCHOOL,
P.O.ETTUKUDUKKA RESIDING AT INDIVARAM, ANNUR
PADINJAREKARA, P.O.ANNUR, (VIA) PAYYANUR.

BY ADV. SRI.V.GIRI
SRI.C.MURALIKRISHNAN (PAYYANUR)

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY THE
SECRETARY TO EDUCATION, EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT EDUCATIONAL OFFICER,
KANNUR.

3. THE ASST.EDUCATIONAL OFFICER,
PAYYANUR.

4. MANAGER, ETTUKUDUKKA AUP SCHOOL,
P.O.ETTUKUDUKKA, VIA KARIVALLUR.

5. C.SREELATHA, HEADMISTRESS,
ETTUKUDUKKA AUP SCHOOL, P.O.ETTUKUDUKKA,
VIA KARIVALLUR.

BY ADV. SRI.R.SURENDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C)No.23716/2006

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE MANAGER OF THE SCHOOL DATED 15-7-2005.

EXT.P2. TRUE COPY OF THE COMMUNICATION SENT BY MANAGER OF THE SCHOOL TO PETITIONER DATED 14-3-2006

EXT.P3. TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE ASST. EDUCATIONAL OFFICER DT. 20-3-2006

EXT.P4. TRUE COPY OF THE JUDGMENT IN W.P(C) NO.9921 OF 2006 DATED 31-3-2006 OF THIS HON'BLE COURT.

EXT.P5. TRUE COPY OF THE ORDER OF THE ASST. EDUCATIONAL OFFICER DATED 16-5-2006

EXT.P6. TRUE COPY OF THE SECOND APPEAL FILED BY PETITIONER BEFORE DEO DT. 7-6-2006

EXT.P7. TRUE COPY OF THE ORDER NO.B.6 4640/2006/K.DIS. DATED 9-8-2006

EXT.P8. TRUE COPY OF THE RESULTS OF DEPARTMENT TEST PUBLISHED ON 28-10-2005.

EXT.P9. TRUE COPY OF THE SENIORITY LIST APPROVED BY THE ASST. EDUCATIONAL OFFICER.

RESPONDENTS' EXHIBITS:

EXT.R5(a) TRUE COPY OF APPOINTMENT ORDER IN RESPECT OF RESPONDENT NO.5, ISSUED BY THE MANAGER DATED 20-6-1991 AND APPROVED BY THE ASSISTANT EDUCATIONAL OFFICER, PAYYANNUR ON 6-9-1991 WITH EFFECT FROM 20-6-1991

EXT.45(b) TRUE COPY OF THE CERTIFICATE ISSUED BY THE KERALA PUBLIC SERVICE COMMISSION IN FAVOUR OF RESPONDENT NO.5, DATED 12-1-2006

EXT.R5(c) TRUE COPY OF THE ADMISSION TICKET DATED 16-6-2005 ISSUED BY THE KPSC TO RESPONDENT NO.5.

/ TRUE COPY /

P.S.TO JUDGE

KURIAN JOSEPH, J.

W.P(C)No.23716 of 2006

Dated this the 26th day of October, 2007

JUDGMENT

The challenge is on Exts.P2 to P5 and P7. What is the date of occurrence of vacancy is the crucial question. The teacher completes the age of 55 during the middle of the academic year. However, by virtue of Rule 62 of KER, the teacher is entitled to continue till the end of the academic year. In case the incumbent to be promoted acquires the required qualification before the end of the academic year, he is eligible to be considered for appointment. Should the acquisition of qualification be limited to the date of actual superannuation is the question. Since the petitioner has an effective remedy of statutory revision before the Government at this stage the court need not go into the various questions raised in this writ petition. Therefore, without expressing any opinion as to the merits of the case, this writ petition is disposed of with the following directions. In the event of the petitioner filing a revision before the Government within a period of one month from today, the same shall be treated to

have been filed in time and thereafter the revisional authority shall dispose of the revision with notice to the petitioner and the party respondents within another four months. The parties shall also be afforded an opportunity of being heard.

(KURIAN JOSEPH, JUDGE)

ahg.

KURIAN JOSEPH, J.

W.P(C)No. 23716 of 2006

JUDGMENT

26th October, 2007